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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,678	12/08/2003	Thomas P. Warner	WS-0001	5721

7590 02/27/2007  
John Buckert  
36612 Tulane Drive  
Sterling Heights, MI 48312

EXAMINER
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WILSON, JOHN J

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	02/27/2007	PAPER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/730,678  
Filing Date: December 08, 2003  
Appellant(s): WARNER, THOMAS P.

**MAILED**

**FEB 27 2007**

**Group 3700**

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John F. Buckert  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 22, 2006 appealing from the Office action mailed August 15, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Application Serial No. 10/464,369 has an appeal filed November 13, 2006 on claims that contain closely related subject matter and issues. An Examiner's Answer for 10/464,369 is being processed concurrently with this Examiner's Answer.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,571,681	Beier et al.	2-1986
4,156,187	Murry et al.	5-1979
4,305,126	Beier et al.	12-1981
4,114,275	Jones et al.	9-1978
5,931,669	Fornoff et al.	8-1999
4,171,572	Nash	10-1979

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4, 5, 7, 12-17, 20, 22, 24-26 and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Beier et al (4571681) in view of Murry et al (4156187) and Beier et al (4305126) for the reasons set forth in the Final Rejection of August 15, 2006, incorporated herein.

Claims 8-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Beier et al (4571681) in view of Murry et al (4156187), Beier et al (4305126) and Jones et al (4114275) for the reasons set forth in the Final Rejection of August 15, 2006, incorporated herein.

Claims 18 and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Beier et al (4571681) in view of Murry et al (4156187), Beier et al (4305126) and Farnoff et al (5931669) for the reasons set forth in the Final Rejection of August 15, 2006, incorporated herein.

Claims 29 and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Beier et al (4571681) in view of Murry et al (4156187), Beier et al (4305126) and Nash (4171572) for the reasons set forth in the Final Rejection of August 15, 2006, incorporated herein.

#### **(10) Response to Argument**

Appellant argues, on pages 7 and 8, paragraph A. i., of the brief, that with respect to claims 1, 4, 5, 7, 12-17, 20, 22, 24-26 and 28, no proper motivation for the combination of references has been identified. Appellant reasons that Beier '681 is directed to supplying variable voltage to the selected instrument while Murry uses an ultrasonic transducer that only transmits a signal to turn on a first or second device, therefore, if the transmitter and receiver of Murry were combined with Beier '681 the function of Beier to provide variable control would be destroyed because the combination would only be capable of turning devices on and would not allow for the variable voltage supply of Beier '681. The examiner disagrees with this statement because Murry has been used to show a known alternative way to transmit signals, that is, remotely or by wire, in the art of controlling devices, and as such, suggests an alternative to using the wire connection of Beier '681. It is held that it is not necessary in the combination to place the entire teaching of Murry into the device of Beier '681, that one of ordinary level of skill in the art would understand how to incorporate the alternative ways of communicating signals taught by Murry into the system of Beier '681 and maintain the ability to supply variable voltage by not including every feature of the Murry reference in the combination.

Appellant argues on pages 8-11, paragraph A. ii., of the brief that, with respect to claims 1, 4, 5, 7, 12-17, 20, 22, 24-26 and 28, not each and every limitation of the claims is taught by the combination. Appellant argues that there is no explicit teaching of a radio frequency receiver unit, that Murry's teaching of wireless control 86, which is a remote R.F. transmitter, is unclear because the term "R.F." could correspond to remote function or remote frequency or some other word combination, and further, Murry teaches an ultrasonic receiver to receive ultrasonic energy in describing the device, therefore, it is not inherent that "R.F." in Murry teaches radio frequency. The examiner disagrees with Appellant's argument because one of ordinary skill in the art would readily recognize the meaning of the terminology "a remote R.F. transmitter" to be a radio frequency transmitter. That Murry also teaches using ultrasonic signals in the described embodiments does not obviate this teaching. Further, it is noted that it is well known in the art that RF, ultrasonic and infrared are recognized equivalent ways of sending remote signals as can be seen in known prior art. Therefore, Murry does properly teach using RF remote signals. Appellant further argues that because the term "R.F." in Murry is not clearly defined, Murry does not disclose any component capable of receiving a radio frequency. While Murry does not specifically state using a radio frequency receiver, Murry, as discussed above, does teach using a radio frequency transmitter, and therefore, one of ordinary skill in the art would find it obvious to use a radio frequency receiver. Appellant further argues that the combination does not show a first microprocessor configured to induce a first RF transmitter signal in response to the first device being selected and where the RF signal has a first identifier value or

induce a second RF signal in response to a second device being selected where the RF signal has a second identifier value. Appellant's arguments are disagreed with by the examiner because, with respect to the use of a microprocessor, Beier '681 suggests the use of computers and Beier '126 properly suggests that communication between the different modules can be controlled using a microprocessor. With respect to the generated signal have a first or second identifier value, Beier '681 generates a first or second signal, depending on which device I, II, III, IV is selected by combining the signal from encoder 5 with the summing circuit when the foot-operated pedal 16, 75 is depressed, and that along with other circuitry addresses the desired control of I, II, III, IV as set at encoder 27. It is held that this signal inherently includes an identifier value, and as such, activation of the foot pedal generates an identifier value as claimed. Appellant further argues that the combination does not show a unit configured to compare the first identifier value to a first predetermined value associated with the first device. Applicant's argument is disagreed with by the examiner because Beier '681 teaches circuitry for identifying which device is selected and sending a signal to control that device, and therefore, suggests to the skilled artisan that a comparison of that signal must be made in order for the control to determine which tool is being controlled.

Appellant argues on pages 11 and 12, paragraph B. i., of the brief that, with respect to claim 8, not each and every limitation of the claim is taught by the combination. Appellant argues that the combination does not provide any teaching of a pneumatic switch operatively coupled to a microprocessor for inducing the RF transmission and that Jones only shows a pneumatic switch connected to a foot pedal.

The examiner disagrees with this argument because while Jones properly suggests an art known switch for pneumatically controlling signals, the use of a microprocessor has been shown to be obvious in the combination of references used.

Appellant argues on pages 12 and 13, paragraph B. ii., of the brief that, with respect to claim 9, not each and every limitation of the claims is taught by the combination. Appellant argues that the combination does not provide a pressure sensor coupled to a conduit generating a pressure signal transmitted to the first microprocessor and Jones only shows a diaphragm operated electrical switch. This argument is disagreed with by the examiner because pressure sensors and switches in a pneumatic-electric system are very well known, and therefore, would have been obvious to one of ordinary skill in the art in the choice of known switching mechanisms for control systems in view of the combined teachings of the references.

Appellant argues on pages 13 and 14, paragraph B. iii., of the brief that, with respect to claim 10, not each and every limitation of the claims is taught by the combination. Appellant argues that the combination does not provide a first microprocessor that is configured to induce the RF transmitter to generate the first RF signal with the pressure signal indicates the pressure is greater than a predetermined pressure is not shown, that Jones does not provide any microprocessor. It is held that the combination of references suggests the use of microprocessors for controls, and as such, the combination with Jones properly suggests the use of pneumatic switches and microprocessors for controlling devices. The specific arrangement of these elements in

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the system would be within the level of skill of one of ordinary skill in the art of control systems.

Appellant argues on page 14, paragraph B. iv., of the brief that, with respect to claim 11, not each and every limitation of the claims is taught by the combination. Appellant argues that the combination does not provide a first microprocessor configured to induce the RF transmitter to generate the first RF signal containing a command value determined from the pressure signal, Jones does not provide any teaching of a microprocessor configured as claimed. This argument is disagreed with by the examiner because the combination of references suggests the use of microprocessors for controls, and as such, the combination with Jones properly suggests the use of pneumatic switches and microprocessors for controlling devices, and further, the combination suggests command values because such values are well known as necessary in computer controlled systems.

Appellant argues on pages 15 and 16, paragraph C. i., of the brief that, with respect to claim 18, not each and every limitation of the claims is taught by the combination. Appellant argues that the combination does not provide a video capture board as claimed, that Fornoff teaches using a stored program to freeze video not a video capture board as claimed. This argument is disagreed with by the examiner because Fornoff teaches that the system is integrated with a video camera, column 4, lines 31, and as such, the images taken by the camera must be input into the computer. One of ordinary skill in the art would be aware that a video card is a very well known

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way of imputing images into a system, and the use of an input card would have been obvious to the skilled artisan.

Appellant argues on page 16, paragraph C. ii., of the brief that, with respect to claim 27, not each and every limitation of the claims is taught by the combination. Appellant argues that the combination does not provide a method step of inducing a video capture board to store a video image. This argument is disagreed with by the examiner for the same reasons stated in the paragraph directly above and because the method using of the structure would be an obvious use of the obvious structure to the skilled artisan.

Appellant argues on page 17, paragraph D, of the brief that, with respect to claims 29 and 30, not each and every limitation of the claims is taught by the combination. Appellant argues that the combination does not provide a timer as claimed, that Nash does not show maintaining activation of the first device during a first time period from the receipt of the first RF signal to receipt of a third RF signal, the time limited by a threshold time period. This argument is disagreed with by the examiner because Nash teaches using a predetermined time period, column 7, line 17, which inherently requires a threshold time period. The use of RF signals is obvious for the reasons given above with respect to the combination of references.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

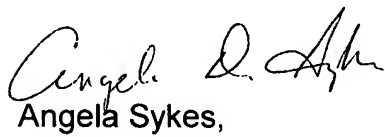
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John J Wilson

Conferees:

A handwritten signature in black ink, appearing to read "Cris Rodriguez". The signature is cursive and somewhat stylized.

Cris Rodriguez,

A handwritten signature in black ink, appearing to read "Angela Sykes". The signature is cursive and somewhat stylized.

Angela Sykes,